

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

J. Leeds Barroll,)	
)	C/A No. 3:09-1627-MBS
Petitioner,)	
)	
Robert Summerlin,)	
)	
Plaintiff,)	
)	
vs.)	
)	O R D E R
Michael J. Astrue, Commissioner of)	
Social Security,)	
)	
Defendant.)	
_____)	

Plaintiff Robert Summerlin brought this action to obtain judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's claims for disability insurance benefits. See 42 U.S.C. § 405(g). On January 4, 2010, Defendant moved to remand pursuant to sentence four of § 406(g) for further administrative proceedings. The motion was granted on January 11, 2010. On March 2, 2010, the court granted attorneys' fees pursuant to the Equal Access to Justice Act (EAJA), 42 U.S.C. § 2412(d), in the amount of \$4,806.00.

This matter now is before the court on motion for attorney's fees filed by counsel for Plaintiff on July 26, 2010. Counsel moves for an order awarding attorney's fees under the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$10,451.00, which equals 25% of the gross past due benefits. Counsel notes that Plaintiff is entitled to credit for the \$4,806.00 paid under the EAJA, for a net fee of \$5,645.00. The balance is to be refunded to Plaintiff. On August 16, 2010, the Commissioner filed a response informing the court that he did not oppose Plaintiff's motion for fees in the net amount of \$5,645.00. Accordingly,

IT IS ORDERED that Plaintiff's motion for fees under 42 U.S.C. § 406(b) be **granted** in the amount of \$10,451.00, minus the \$4,806.00 EAJA fee, for a net payment of \$5,645.00 to counsel. The balance of \$4,806.00 shall be refunded to Plaintiff.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

August 17, 2010

Columbia, South Carolina